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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,540	10/28/2003	Theodore B. Rydell	001432-0170	7840
20572	7590	09/07/2006	EXAMINER FORTUNA, JOSE A	
GODFREY & KAHN S.C. 780 NORTH WATER STREET MILWAUKEE, WI 53202			ART UNIT 1731	

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/696,540

**Applicant(s)**

RYDELL, THEODORE B.

**Examiner**

José A. Fortuna

**Art Unit**

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28, 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-28 and 30, drawn to a “water dispersible wipe and method of making,” classified in class 162, subclass 158.
  - II. Claim 29, drawn to a “method of cleaning,” classified in class 134, subclass 1+.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions the inventions have different mode of operations, design and effects.
3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Nicholas Knees on August 29, 2006 a provisional election was made without traverse to prosecute the invention of group I, claims 1-28 and 30. Affirmation of this election must be made by applicant in replying to this Office action. Claim 29 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Objections***

5. Claim 15 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It is unclear how a method of testing a product in this particular case a web/wipe/tissue/paper limits the tested product.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-28 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 14, 21, 27, 28 and 30 are vague and indefinite since it is unclear what tensile strength is being claimed, i.e., the directional tensile, MD or/and CD strength or the average. If the latter then it is unclear what average has been used to obtain the value, i.e., arithmetic, weight or geometric average.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1-28 and 30 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over admitted prior art.

Sample 7 in paragraph [0069], shows that the wipe of the prior art, Ahlstrom, has properties in the same range as claimed. Sample 7 shows that the wet wipe of the prior art has MD tensile strength of 79 N/m and CD tensile strength of 31 N/m, the average, either arithmetic or geometric, fall within the claimed range. It is also shown that the wipe is readily dispersed within 100 shakes. Therefore, it seems that Ahlstrom's wet wipes have all the limitations of the claimed wipes or at least the minor modifications to obtain the claimed invention would have been obvious to one of ordinary skill in the art. Note that the wetting solution could be water, i.e., does not have to have alcohol. Moreover, the use of alcohols within wet wipes is also conventional in the art, either in diluted or concentrated solution.

11. Claims 1-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shet, US Patent No. 5,522,967 in view of Durden, WO 02/45620 A2.

Shet teaches a cellulosic web that could be used as wet wipe and have significant wet and tensile strength, see abstract. Shet teaches that tensile of the web can be further

improved/enhanced by the internal fibrillation of cellulosic fibers by refining/beating and the web can be used in wet wipes, see column 4, lines 52-67. Shet teaches the same types of cellulosic fibers as claimed, disclosed, see column 2, lines 32-51 and examples. Shet is silent with respect to the use of a wetting agent in the wet wipe. However, wet wipes are conventionally impregnated with an aqueous wetting agent, usually containing some alcohol either as surface active agent, a second solvent in two phases solutions, or as antimicrobial agent, see for example Durden, that teaches a wet wipe including alcohol as a antimicrobial agent therefore, the use of an aqueous solution of alcohol as the wetting agent of a wet-wipe would have been obvious to one of ordinary skill in the art. One of ordinary skill in the art would have reasonable expectation of success if an aqueous solution of alcohol, such as that disclosed by Durden, is incorporated into Shet's wipes. Note that the combination of the references would necessarily have the strength as claimed, since the base web is made using the same raw materials and using the same process and the final product has the same wetting agent(s).

### ***Conclusion***


12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure in the art of "Wet-Wipes."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A. Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
José A Fortuna  
Primary Examiner  
Art Unit 1731

JAF